Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: **R/124/16/CLP**

LOCATION: 33 North Lane
Rustington

PROPOSAL: Application for a Certificate of Lawfulness for a proposed development - Demolish existing detached garage & rebuild on same footprint not exceeding height of 4m.

DESCRIPTION OF APPLICATION

The application seeks permission for the construction of a detached garage to the north of the dwellinghouse measuring 4 metres in height, with an eaves height of 2.5m located 1m from the boundary of the site.

DESCRIPTION OF SITE AND SURROUNDINGS

Detached 2 storey dwelling, red brick elevations and hipped red tiled roof. Gable section to the front of the dwelling. Detached garage and car port to the south side of the dwelling, attached garage to north side and shed within rear garden. Sited within a residential area, characterised by a mix of 1 and 2 storey detached and semi detached dwellings. Bungalow to north with garage built-up close to the shared boundary.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

None.

Comments on Representations received:

N/A

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

N/A

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted

or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), Schedule 2, Part 1, Class E, which pertains to the enlargement, improvement, or other alterations to a dwellinghouse.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSIONS

The proposed detached garage is considered to fall under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, which states;

"E.1 Development is not permitted by Class E if -

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

(d) the building would have more than a single storey;

(e) the height of the building, enclosure or container would exceed -
(i) 4 metres in the case of a building with a dual-pitched roof,
(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
(iii) 3 metres in any other case;

(f) the height of the eaves of the building would exceed 2.5 metres;

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

(h) it would include the construction or provision of a verandah, balcony or raised platform;

(i) it relates to a dwelling or a microwave antenna; or

(j) the capacity of the container would exceed 3,500 litres.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within;

(a) an area of outstanding natural beauty;
(b) the Broads;
(c) a National Park; or
(d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse
would exceed 10 square metres.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

Interpretation of Class E

E.4 For the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse as such" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse."

The proposed detached garage is located approximately 0.6m from the boundary of the site and will have an eaves height of 2.5m and a maximum ridge height of 4m (although the plans when scaled measure the proposed garage as being 5m in height). However, based upon the evidence submitted it is apparent that the proposed garage is intended to measure 4m in height.

Schedule 2, Part 1, Class E, E.1 (e)(ii) states that development is not permitted if the height of the building, enclosure or container would exceed 2.5m in the case of a building, enclosure or container located within 2 metres of the boundary of the curtilage of the dwellinghouse. Therefore, the proposed garage by virtue of its design, size and location does not comply with the limitations of the Town and Country (General Permitted Development) Order 2015 and as such does not benefit from permitted development rights and would require the submission of a formal planning application.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 1st June 2016 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, would not have been lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason:

·The proposed garage exceeds 2.5m in height and is located within 2m of the curtilage of the dwellinghouse and as such fails to comply with the limitations of Schedule 2, Part 1, Class E of the Town and Country (General Permitted Development) Order 2015.

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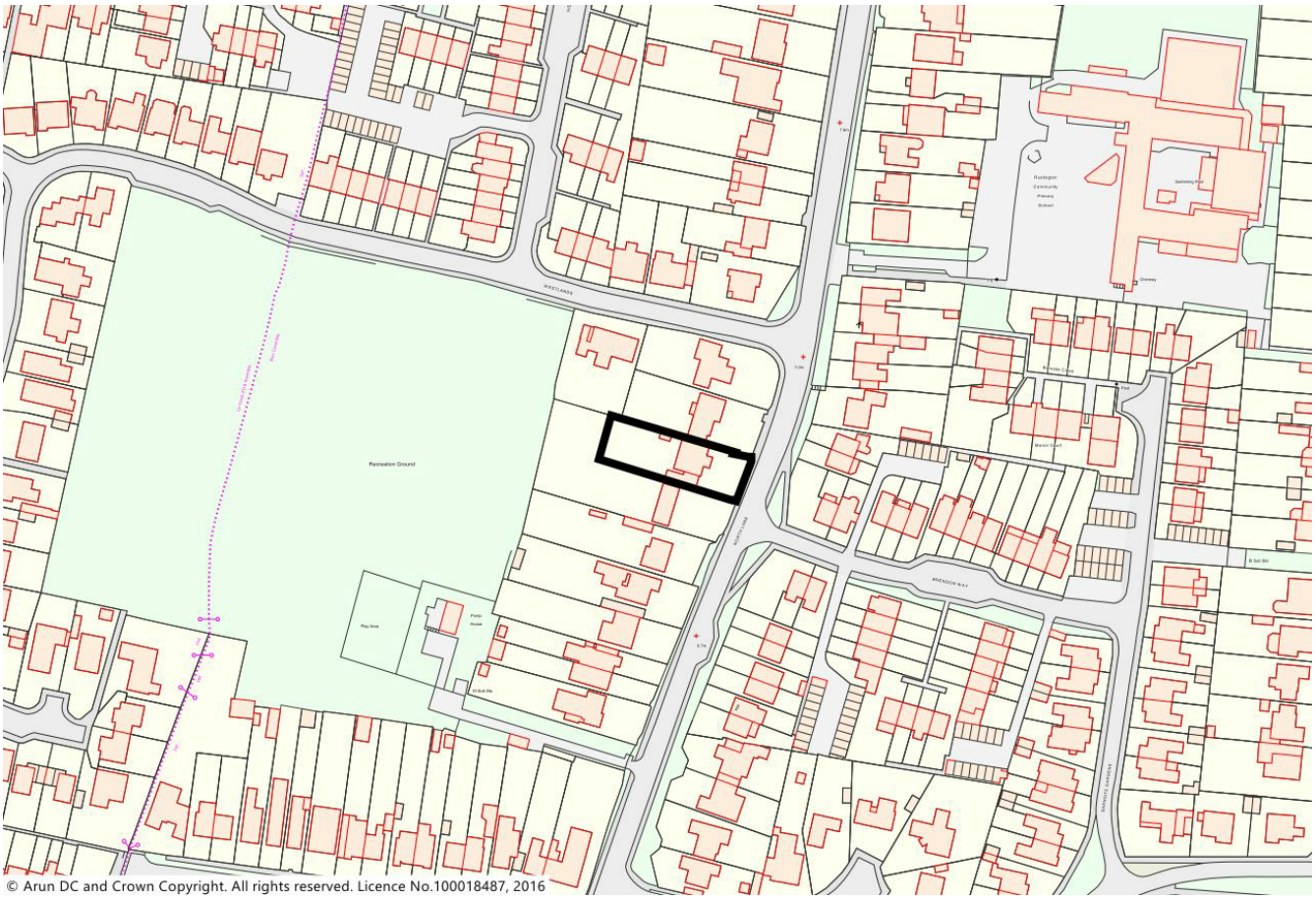
FIRST SCHEDULE
Construction of a detached garage as detailed on submitted drawings:

·Location Plan
·Block Plan
·Proposal 1 Floor Plan
·Proposal 1 Front Elevation
·Proposal 1 Left Elevation
·Proposal 1 Rear Elevation
·Proposal 1 Right Elevation
·Proposal 1 Top Elevation (Roof Plan)

SECOND SCHEDULE
33 North Lane, Rustington, West Sussex, BN16 3PL

EXTENT OF USE
Construction of a detached garage within 2m of the boundary of the dwelling measuring 4m in height with an eaves height of 2.5m.



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